

Members

Rep. Kathy Richardson, Chairperson
Rep. Ralph Ayres
Rep. Ryan Dvorak
Rep. Robert Kuzman
Sen. Richard Bray, Vice-Chairperson
Sen. David Long
Sen. John Broden
Sen. Timothy Lanane
G. Michael Witte
Chief Justice Randall Shepard
Ron Tabaczynski
Jacqueline Rowan
Larry Bye



COMMISSION ON COURTS

Legislative Services Agency
200 West Washington Street, Suite 301
Indianapolis, Indiana 46204-2789
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Mark Goodpaster, Fiscal Analyst for the
Commission
Timothy Tyler, Attorney for the Commission

Authority: IC 33-1-15

MEETING MINUTES¹

Meeting Date: October 3, 2005
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington St.
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 3

Members Present: Rep. Kathy Richardson, Chairperson; Rep. Ralph Ayres; Rep. Ryan Dvorak; Rep. Robert Kuzman; Sen. Richard Bray, Vice-Chairperson; Sen. David Long; Sen. Timothy Lanane; G. Michael Witte; Chief Justice Randall Shepard; Ron Tabaczynski; Larry Bye.

Members Absent: Sen. John Broden; Jacqueline Rowan.

Call to Order

Rep. Richardson called the third meeting of the Commission on Courts to order at 10:35 a.m.

Correction to the Minutes from September 16th Meeting

The minutes were amended to substitute Rep. Richardson's name for Rep. Kuzman where the minutes report that Rep. Kuzman requested that Lake County Juvenile Court be included on the agenda at the third meeting.

Old Business

Rep. Richardson distributed a copy of a letter dated August 23, 2005, that she sent to the Attorney General about whether garnishees should be considered as defendants in small claims and civil cases. (A copy of the letter is included as Exhibit A.) She noted that she is still waiting for an opinion from the Attorney General.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Marion County

Cale Bradford and Jane Magnus-Stinson, Marion Superior Court Judges, testified to the Commission members about the need for additional state-paid court officers in Marion County. Judge Bradford noted that this petition for additional state-paid court officers was a bipartisan request by all branches of the Marion County government.

In a Power Point presentation (see Exhibit B), Judge Magnus-Stinson noted that Marion County trial courts handled 15% of all 2004 state filings, had 10% of all state-paid judicial officers, and remitted 14.4% of court revenues generated by all trial courts in the state to the state General Fund. She told the Commission members that based on the average statewide workload, the Marion County share of total case filings, and the percentage share of all state-funded judicial officers, Marion County needs either 24 or 25 new judicial officers. And based on weighted caseload needs and if all court officers in Marion County were state-paid, Marion County would need 39 new court officers.

Existing Court Officers in Marion County	
State-Paid	43.00
County-Paid	<u>27.50</u>
Current Number of Officers	70.50
Need Based on Weighted Caseload	82.39
Current Number of Officers	<u>70.50</u>
Difference	11.89
Make County-Paid Officers State-Paid	<u>27.50</u>
New State-Paid Officers Needed	39.39

Because of limited finances, Judge Magnus-Stinson told the Commission members that Marion County is requesting one new judge and commissioner in both 2006 and 2008.

Both Senators Long and Bray noted that Marion County's low ratio of elected judges to appointed magistrates and commissioners makes it less likely that litigators will have their cases decided by elected judges. While acknowledging that state financing is currently prohibitive, Senator Bray indicated that he would like to see a long-range plan for Marion County to substitute more judges and fewer magistrates.

Judge Bradford noted the concerns about the costs of adding new judges and indicated that the General Assembly would more likely fund some combination of judges and magistrates than only judges. He also noted that Marion County currently has no need for additional court rooms or facilities.

John Kautzman, president of the Indianapolis Bar Association, told the Commission members that both attorneys and their clients in Marion County support this request for new judicial officers. He noted the problem with judicial decisions being delayed because of the lack of judicial officers.

Rep. Richardson asked the judges about whether creating new courts that would be available for election in 2006 would give the clerk of the circuit court adequate time to include the candidates for this new court in the primary elections in May. Judge Stinson indicated that the

judges would confer with the county election board so that the addition of a court would not add to the difficulties of primary election day.

Chief Justice Shepard noted that the balance between state- and county-paid judicial officers is a finance issue as well as a judicial issue. He explained that some counties have been willing to spend money out of their county general fund for more court officers and consequently have less money available for other county facilities or programs. Consequently, unless the General Assembly takes a more global approach in addressing this discrepancy, other counties will also petition for judges and magistrates as a method of fiscal relief.

Rep. Richardson told the Marion County delegation that the Commission members will decide at the final meeting on October 20 whether they would recommend new courts.

Lake County Juvenile Court Magistrate

Mary Beth Bonaventura, judge of the Lake Superior Court Juvenile Division, told the Commission members that she has three juvenile court commissioners who work part time for her court. She told the Commission members that she would like to reconfigure her staff so that she would have a full-time juvenile court magistrate and one part-time juvenile commissioner. She explained that the three juvenile court referees each work part time and receive salaries of \$42,700. The juvenile court magistrates receive a salary of \$88,400, but, by statute, the county in which the juvenile court magistrate serves pays \$41,393 of the total salary. Lake County also supplements the juvenile court magistrate with an additional \$4,000.

Rep. Kuzman noted that he has represented juvenile defendants on a *pro bono* basis in the juvenile court in Lake County. He told the Commission members that adding a full-time court officer to hear cases would allow for more continuity in the court hearings and consistency in court decisions.

Judge Bonaventura distributed a letter (Exhibit C) from Will Smith Jr., president of the Lake County Council, and Ron Tabaczynski which stated support for any proposals that are cost neutral that change job positions, enhance the efficiency of the court, and do not require additional support staff.

Rep. Ayres also stated that he supported Judge Bonaventura's proposal.

Rep. Richardson requested staff to research the statute about how juvenile court magistrates are financed.

Johnson County Superior Court

Judges Mark Loyd and Kevin Barton appeared before the Commission to present the need for two new superior courts in Johnson County. (Exhibit D) Currently, Johnson County has four courts of record and two magistrates. They told the Commission members that when using weighted caseload measures as a guide to their needs, Johnson County's rank by severity of need measure has increased from 50th in 2001 to 32nd in 2004. Based on the filings between January and September of 2005, their rank could increase to between 22nd and 18th. Assuming that the county population and caseloads continue growing, Johnson County needs a new judge now and in 2010.

In answers to other questions, Johnson County officials made the following points:

- Johnson County has no county-paid court officers.

- The county has a task force that is studying the need for additional capital facilities including new court rooms.
- One new court should be added in 2006 and 2010.

Senator Bray noted that Johnson County ranks around 32nd by 2004 weighted caseload statistics and felt that the Commission on Courts should recommend courts be created in counties with higher needs based on the weighted caseload statistics report prepared by the Division of State Court Administration.

Representative Richardson also suggested that Johnson County continue to update the Commission on Courts on Johnson County's workload and population growth.

Madison County Courts Conversion to Superior Courts

Judges Jack Brinkman and Dennis Carroll told the Commission on Courts about their wish to reorganize the courts in Madison County. Part of this reorganization would involve converting the two county courts, three superior courts, and circuit court into one unified court. Judge Carroll noted that both the Supreme Court and General Assembly has required court unification. The Indiana Supreme Court has mandated a single countywide rule for the assignment of felony cases and directed that local rules for court procedure be uniform throughout the county. In addition, state law requires a single countywide plan for petit jury pooling. He noted that if Madison County's public defender budget, judicial personnel administration, and court resource allocation were all fully integrated, the courts could increase efficiency, save money, maximize and expand judicial resources, and better serve the public. In 1996, SB 285 was introduced to allow for trial courts in Madison County to operate as a unified circuit court. The judges in Madison County request that the Commission on Courts recommend this same legislation be passed during the 2006 General Assembly. (Exhibit E).

Senator Bray noted that while both county and superior court judges limit the age of a person running for county court judge to younger than 70 before the person begins the person's term of office, the circuit court has no age limitation.

During Commission discussion, members noted that other counties have upgraded their county courts to superior courts and integrated their operations. Chief Justice Shepard noted that the article in the state constitution establishing requirements for circuit court judges includes the provisions that a judge has to be elected and the person has to be an attorney. Anything else is left for the General Assembly to decide.

Rodney Cummings, Madison County Prosecuting Attorney, told the Commission members that his office is concerned that unifying the courts and allowing criminal cases to be heard in any court will significantly increase the workload for his limited staff.

Final Meeting

Rep. Richardson announced that the final meeting of the Commission on Courts will be on October 20, 2005, at 1 p.m.

There being no further business, the meeting was adjourned at 3:30 p.m.